

## **Developments in Intellectual Property Protection**

**2003-2004**

### **2003**

#### **May**

- In Vietnam, a May 2, 2003 governmental decree on industrial property protection for layout design of integrated circuits established protection for original semiconductor integrated circuit designs.
- On May 6, 2003 Russia's Interministerial IPR Commission held its first meeting.
- In India, the May 2002 Patent Law amendment became effective in May 2003 although it still contains numerous categories of inventions that are not patentable. Data exclusivity protection is also necessary to improve India's patent regime.
- Togo became party to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty on May 21, 2003.
- Ukraine's Supreme Rada adopted a law pertaining to IPR sanctions entitled "On Introducing Amendments to Certain Legislative Acts of Ukraine on Matters of Intellectual Property" on May 22, 2003.
- In May 2003, Colombia issued a new decree granting data protection for agricultural chemicals.
- In May 2003, the French Industry Minister published a 2003/2004 action plan, thereby creating a national anti-counterfeiting committee charged with strengthening criminal sanctions for IP crimes.
- Improved enforcement against piracy began in Malaysia in May 2003.

#### **June**

- China's State Administration of Industry and Commerce issued the Rules on the Determination and Protection of Well-Known Trademarks, the Measures on the Implementation of the Madrid Agreement on Trademark International Registration and the Measures on the Registration and Administration of Collective Trademarks and Certification Marks in April 2003, all of which became effective June 1, 2003.
- The Dominican Republic ratified the WIPO Performance and Phonograms Treaty on June 10, 2003 but has yet to deposit these documents with WIPO.
- Serbia and Montenegro joined the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (the "Geneva Phonograms" Convention) on June 10, 2003.

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- On June 12, 2003 Russia banned sales of audio and video products from street vendors in order to counter sales of pirated products.
- Serbia and Montenegro became party to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty on June 13, 2003.
- Papua New Guinea became party to the Patent Cooperation Treaty (PCT) on June 14, 2003.
- On June 18, 2004, the Qatar Finance Ministry signed a software licensing agreement designed to ensure all government entities, including semi-privatized and state-owned corporations use licensed software.
- In June 2003, the Brazilian Congress launched a Commission of Parliamentary Inquiry (CPI) on piracy.
- Kazakhstan’s draft law on IPR was submitted to the Lower House of Parliament (Majilis) in June 2003, and will give the IPR Committee of the Ministry of Justice independent investigative authority.
- In June 2003, the Korean Ministry of Justice sent a directive to all regional prosecutor offices to work pro-actively in pursuing IPR infringement.
- Morocco's lower house passed a draft Copyright Law in June 2003.
- In June 2003, the New Zealand Government proposed amendments to the Copyright Act of 1994 to make it more consistent with the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. The amendments are intended to ensure that the Copyright Act reflects developments in digital technologies and international developments in copyright.
- In June 2003, heightened anti-piracy enforcement efforts in Poland began to show an improvement in reducing the levels of copyright piracy for some industry sectors at the Warsaw Stadium.
- With the adoption of new copyright amendments in June 2003, which made piracy a public crime, the copyright industries have so far witnessed some welcome improvements in the overall enforcement climate in Taiwan.

## **July**

- Effective July 1, 2003, an amendment to the Austrian Copyright Act implemented the EU Directive on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society and regulates copyrights of works on the internet, protection of computer programs and related damage compensation.
- In Korea, amendments to both the Copyright Act and Computer Programs Protection Act took effect on July 1, 2003. Among other things, these amendments and implementing regulations

provide the framework for a “notice and takedown” system to combat online copyright piracy. The Copyright Act amendments also strengthened the effectiveness of technological protection measures.

- Portugal’s new Industrial Property Code entered into force on July 1, 2003.
- In Vietnam, a July 1, 2003 circular jointly promulgated by the Ministry of Culture and Information and the Ministry of Finance on royalties established guidelines for royalty payment regimes and the use of royalty funds for some types of works.
- In Vietnam, a July 16, 2003 circular on implementation of the March 13, 2003 decree on advertising stipulated that advertisements adhere to the properties of the trademark as announced or registered with the relevant state management agency.
- On July 29, 2003, a new copyright law went into effect in Indonesia. The new law criminalizes violations, increases fines to UD 62,000, and extends prison terms up to seven years for dealers of pirated materials.
- Albania became party to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol 1989) on July 30, 2003.
- Algeria adopted new laws related to copyrights and neighboring rights, trademarks, patent and integrated circuits in July 2003.
- Andorra adopted new laws related to copyrights and neighboring rights, trademarks, patents and integrated circuits in July 2003.
- In July 2003, Egypt issued implementing regulations for its June 2002 IPR law covering patents, trademarks, and botanical varieties (but not copyright).
- The special IPR section of Italy's administrative and civil courts began working in July 2003.
- Jordan passed Copyright Law Amendments in July 2003.
- In July 2003, President Lula signed a law that amended the criminal code in Brazil, increasing the minimum penalty for copyright violations (from one to two years’ imprisonment). The law also codified procedures to seize and destroy contraband and gave judges authority to dispose of seized goods to ensure they will not be used for commercial purposes.

## **August**

- On August 4, 2003, Bolivia ratified the Patent Cooperation Treaty (PCT).
- The Dominican Republic approved legislation to ratify the WIPO Copyright Treaty on August 26, 2003.
- Tunisia became party to the International Convention for the Protection of New Varieties of Plants (UPOV) on August 31, 2003.

- In August 2003, New Zealand's 2002 Trade Marks Act entered into force. The act creates new criminal offenses for counterfeiting trademarks and increases the penalties for pirating copyright goods.
- In August 2003, Poland adopted a national IPR strategy and objectives to combat piracy.
- In August 2003, Slovenia adopted regulations dealing with biotechnological inventions, supplementary protection for medicinal products and supplementary protection certificates for plan protection products.
- Since the Duarte Administration took office in August 2003, the Paraguayan Government has beefed up efforts to seize pirated CDs.

## **September**

- Egypt became party to the Patent Cooperation Treaty (PCT) on September 6, 2003.
- Following passage of a new trademark law in December 1999, India published implementing regulations to put the new trademark law into effect in September 2003. The new Trademark Act provides protection for service marks for the first time.
- On September 19, 2003, the Mexican Ministries of Health and Economy implemented a presidential decree requiring applicants for safety and health registrations to show proof of patent and proof that test data was obtained in a legitimate manner.
- In Brazil, a Congressional Caucus on piracy and tax evasion was formed in September 2003.
- China's National Copyright Administration issued the Measures on the Implementation of Administrative Penalties in Copyright Cases in July 2003 and became effective September 2003.
- In September 2003, the Greek Parliament ratified the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty.
- In September 2003, Mexico's Office of the Attorney General's Special IPR Enforcement Unit became operational.
- In September 2003, Mexico's new compulsory licensing law on patents came into effect. The original draft of this bill was very broad, but the cooperation of the Mexican government was helpful in this effort and the results were positive for U.S. pharmaceutical investment interests.
- In September 2003, Saudi Arabia's updated Copyright Law was officially published. The new copyright law allows for stricter regulation of intellectual property and stronger deterrent penalties including jail terms and increased fines.
- In Saudi Arabia, a September 2003 Judicial Decision issued by the Board of Grievances increased the scope of icons that may receive trademark protection.
- In September 2003, Taiwan's Ministry of Justice conducted a successful raid against book piracy.

- Thailand's Parliament passed its Geographical Indications Act in September 2003.
- In September 2003, the United Arab Emirates' Ministry of Health (MOH) issued a circular granting exclusive marketing rights in the UAE for all innovative pharmaceutical products registered in other countries, strengthening IPR protection for pharmaceuticals.

## **October**

- Micronesia became party to the Berne Convention for the Protection of Literary and Artistic Works on October 7, 2003.
- On October 9, 2003, the Paraguayan Government issued Decree 527, creating the Specialized Technical Unit, which conducts anti-piracy investigations and works with prosecutors to seize pirated goods.
- In Vietnam, an October 17, 2003 circular on copyright protection for import and export commodities at the border jointly issued by the Ministry of Culture and Information and the Ministry of Finance provided guidelines for registration to protect most goods subject to copyright according to the law on customs and relevant regulations.
- The Korean National Assembly passed legislation in June 2003 granting police powers to the Ministry of Communication and Information's (MOIC) Standing Inspection Team. The law went into effect on October 18, 2003.
- Poland became party to the WIPO Performances and Phonograms Treaty on October 21, 2003.
- On October 22, 2003, New Zealand passed legislation prohibiting the parallel importation of films, videos and DVDs for the initial nine months after a film's international release.
- Botswana became party to the Patent Cooperation Treaty (PCT) on October 30, 2003.
- In October 2003, the Czech Republic amended its anti-counterfeiting law in order to implement EU Directives.
- In October 2003, the Korean Ministry of Information and Communication submitted a bill for an Internet address space management act to the National Assembly. The Bill is intended to enhance the legal foundation of the domain name dispute resolution committee and prohibit cyber-squatting.
- Starting in October 2003, there has been improvement in Taiwan's enforcement actions, including night raids and the inclusion of 200 new officers designated for IPR enforcement.

## **November**

- The United States became party to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol 1989) on November 2, 2003.

- Cyprus became party to the WIPO Copyright Treaty on November 4, 2003.
- Cyprus became party to the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement) and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol 1989) on November 4, 2003.
- In Vietnam, a November 5, 2003 circular on the procedures to establish industrial property rights for patent and utility solutions streamlined internal regulations and processes with respect to the registration of patents and utility solutions and established procedures on granting, invalidating and canceling the title of protection of patents and utility solutions.
- In Vietnam, a November 5, 2003 circular on the procedures for establishing industrial property rights for industrial designs simplifies the procedures and requirements related to establishing intellectual property rights for industrial designs.
- On November 12, 2003, a new Sri Lankan intellectual property law came into force, governing copyrights and related rights, industrial designs, patents for inventions, trademarks and service marks, trade names, layout designs of integrated circuits, geographical indications, unfair competition and undisclosed information.
- On November 25, 2003, the Government of Spain modified its penal code to reinforce intellectual and industrial property protection. The revised penal code increases the punishments for crimes against IP infringements, especially for repeat offenders and will take effect on October 1, 2004.
- In November 2003, Chile passed two sets of copyright law amendments in order to implement its TRIPs obligations and its immediate obligations under the U.S. - Chile Free Trade Agreement.
- Hungary's 1997 Copyright Act was amended in November 2003, to ensure compliance with various EU directives; these amendments will enter into force on May 1, 2004.
- In November 2003, Kazakhstan issued a resolution directing enhanced cooperation on IPR enforcement between the Ministry of Justice, Procurator General, Ministry of Interior, Customs, and Financial Police.
- In November 2003, President Remengesau signed the Palau Island's Copyright Act. The act provides protection on a variety of artistic and intellectual properties for local and foreign artists.

## **December**

- Lithuania became party to the International Convention for the Protection of New Varieties of Plants (UPOV) on December 10, 2003.
- The U.S. and Paraguayan Governments negotiated a new IPR MOU in December 2003 replacing the 1998 MOU and focusing on areas that are still of concern, especially the lack of effective IPR enforcement.
- China's Supreme People's Court issued, on December 23, 2003, an amended "Interpretation of the applicable law and some other matters for hearing computer network copyright-related

disputes by the Supreme People's Court," which made minor changes in its previous "interpretations" to better correspond with China's 2001 copyright law amendments.

- Iran became party to the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement) and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol 1989) on December 25, 2003.
- On December 29, 2003, Korea's National Assembly passed legislation to give underlying authority to the Korea's Media Rating Board (KMRB) to close loopholes that had allowed video and DVD pirates to exploit Korea's film and video rating system.
- In December 2003, Argentina's Congress passed an amendment to the patent law to provide protection for products obtained from a process patent and to ensure that preliminary injunctions are available to intellectual property court proceedings.
- In December 2003, Brazil held its first National Anti-Piracy Day, during which several well-known Brazilian recording artists joined political leaders to witness the televised destruction of half a million pirated CDs.
- In December 2003, the Ghana Parliament passed five new IPR laws, including trademarks, patents, layout-designs (topographies) of integrated circuits, geographical indications and industrial designs.
- In December 2003, Luxembourg passed a law implementing the 1998 EU Design Directive.
- Panama law No. 1 of January 5, 2004 was passed in late December 2003. The law raised penalties for IPR infractions.

## **2004**

### **January**

- The U.S. - Chile Free Trade Agreement entered into force on January 1, 2004.
- A New Czech Republic Law on Consumer Taxes came into force on January 1, 2004, that bans the sale of alcohol and cigarettes in market stalls, and may help to curb the sale of illegal goods by reducing the profitability of such stands.
- The Hungarian Patent Act was modified by Act XXXIX of 2003 and entered into force on January 1, 2004. The Act was modified in order to bring Hungary in line with EU legislation and the European Patent Convention.
- Israel became party to the 1971 text of the Berne Convention for the Protection of Literary and Artistic Works on January 1, 2004.
- Namibia became party to the Patent Cooperation Treaty (PCT) on January 1, 2004.

- Ukraine's new Customs Code went into force on January 1, 2004, providing Customs Authorities the power to seize suspected illegal material at the border.
- Croatia became party to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol 1989) on January 23, 2004.
- Jordan deposited its instruments of accession for the WIPO Copyright Treaty on January 27, 2004 (entry into force on April 27, 2004).
- In January 2004, the Bangladesh Cabinet approved an amended copyright act, which is now waiting for Parliamentary approval.
- In January 2004, Bolivia's National Intellectual Property Service (SENAPI) signed an agreement with the Bolivian Customs Authority and the National Tax Administration in order to better combat the entrance of pirated materials and merchandise through Bolivian borders.
- In January 2004, the Jamaican Parliament approved a bill to protect Geographical Indications (GIs).
- In January 2004, an amendment to the Japanese copyright law took effect, extending the length of copyright protection from 50 to 70 years from the release date for movies and animated films, and simplifying the way damages are computed for copyright violations.
- In January 2004, revisions to Luxembourg's "Benelux" trademark system entered into force and created for the first time an administrative opposition procedure for trademarks.
- A new decree passed as part of Peru's tax reform in January 2004, requires importers of blank CDs to make value-added tax payments in advance, improving Peru's ability to track subsequent purchasers.

## **February**

- China's State Council issued the Amendments to the Patent Law Implementing Measures, effective February 1, 2003.
- The Former Yugoslav Republic of Macedonia (FYROM) became party to the WIPO Copyright Treaty on February 4, 2004.
- On February 10, 2004, Morocco's Parliament announced establishment of a permanent watchdog committee to promote public awareness about the threat of piracy.
- Philippine President Arroyo signed the Optical Media Bill into law on February 10, 2004. The law regulates the manufacture, mastering, replication, importation and exportation of optical media.
- Jordan's deposited its instruments of accession for the WIPO Performance and Phonograms Treaty on February 24, 2004 (entry into force on May 24, 2004).



- On February 25, 2004, the Mauritius Supreme Court upheld the temporary injunction against the producers and retailers of counterfeit apparel of a prominent U.S. apparel company. This has the effect of a permanent injunction against the named counterfeit producers and retailers.
- In February 2004, China recognized two U.S. companies' trademarks as well-known marks.
- A draft civil procedure code that includes civil ex parte search provisions passed the first reading in the Estonian parliament in February 2004.

## **March**

- China's State Council Regulations on Customs Protection of IPR became effective March 1, 2004. These regulations prohibit the import and export of IPR infringing goods and improve some aspects of customs procedures for seizing IPR Infringing goods.
- On March 2, 2004, the United States and Morocco reached final agreement on a Free Trade Agreement, whereby it agreed to high levels of patent and copyright protection as well as enforcement, including full implementation of accession to the WIPO "Internet" treaties.
- On March 3, 2004, the Croatian Parliament approved the U.S. - Croatia MOU on Intellectual Property Rights.
- On March 3, 2004, at the request of the United States Government, the Korean Ministry of Education sent a letter to nearly 200 four-year universities in Korea, instructing school authorities to take extra measures to prohibit book piracy and actively cooperate with related officials' efforts to strengthen IPR protection activities.
- Nicaragua became party to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty on March 6, 2003.
- Saudi Arabia joined the Paris Convention for Protection of Industrial Property and the Berne Convention for Protection of Literary and Artistic Works effective March 11, 2004.
- Poland became party to the WIPO Copyright Treaty on March 23, 2004.
- On March 23, 2004 Ukraine's regulations defining procedures for the acquisition and use of software by government agencies came into effect.
- In March 2004, the United States and Bahrain negotiated the intellectual property language of the Free Trade Agreement, whereby Bahrain will agree to high levels of patent and copyright protection as well as enforcement, including full implementation of and accession to the WIPO "Internet" treaties.
- In March 2004, the Polish Sejm and the Senate adopted a legislative package, which included provisions regulating optical disc manufacturing and copyright law amendments necessary in order to comply fully with EU directives. The Sejm is expected to vote on the bill in early April.

- In March 2004, Turkey's Parliament passed a law to ban street sales of copyrighted materials, and to, among other things, establish *ex officio* authority to enforce copyrights.
- In March 2004, the Government of Mauritius subsequently brokered a settlement between the U.S. apparel company and several of the counterfeiters, whereby the latter would cease production of counterfeit merchandise and make a cash payment to the U.S. company. In return, the U.S. company agreed to allow existing stocks of counterfeit merchandise to be sold, under controlled circumstances, through mid-2004.

#### **April**

- The Government of Mauritius is finalizing implementing regulations for copyright legislation passed in 2003 and has shared the draft regulations with the above-cited company for review. The regulations are expected to be issued in Spring 2004.
- In April 2004, the Government of Pakistan issued trademark regulations that are consistent with its TRIPs obligations.

### **WIPO Internet Treaties: WIPO Performance and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT)**

The following became parties to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaties (WPPT) during May 2003-April 2004. The WPPT entered into force on May 20, 2002.

Guatemala	January 8, 2003
Nicaragua	March 6, 2003
Poland	October 21, 2003
Serbia and Montenegro	June 13, 2003
Togo	May 21, 2003

In addition, Jordan has deposited their instrument of accession and will become a party to the WPPT on May 24, 2004.

The following became parties to the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) during May 2003-April 2004. The WCT entered into effect on March 6, 2002.

Cyprus	November 4, 2003
Guatemala	February 4, 2003
Jordan	April 27, 2004
Nicaragua	March 6, 2003
Poland	March 23, 2004
Serbia and Montenegro	June 13, 2003
Togo	May 21, 2003